

**Department of Health and Human Services  
Division of Licensing and Regulatory Services  
State House, Augusta, Maine  
Preliminary Analysis**

**Date:** 9/18/2007

**Project:** Proposal by D'Youville Pavillion to make facility improvements.

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**Directly Affected Party:** None

**Recommendation:** **APPROVAL**

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Estimated Capital Expenditure per Applicant	\$1,527,320
NF Component -	\$1,527,320
RCF Component -	\$0
Approved Capital Expenditure per CON	\$1,527,320
NF Allocation	\$1,527,320
RCF Allocation	\$0
Maximum NF Contingency per CON	\$76,366
Maximum RCF Contingency	\$0
Total Approved Capital Expenditure with Contingency	\$1,603,686

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The following report is the Certificate of Need Unit's preliminary analysis and recommendations regarding the above referenced proposal.

## **Introduction**

### **I. PROJECT DESCRIPTION**

#### **A. From Applicant**

The applicant provided the following information regarding the project:

“St. Marguerite d’Youville Pavilion (d’Youville) proposes to restructure its nursing facility by reducing its bed complement by 70 beds, moving from a licensed capacity of 280 beds to 210 beds. As part of this process, d’Youville intends to:”

“Sell up to 70 bed rights to another provide in need of additional capacity. Seek approval for Medicare dual certification of all remaining beds. Utilize the proceeds from the sale of up to 70 beds to finance the cost of much needed facility improvements to our 20+ year-old facility. During the course of our Annual State Licensing Survey in early February, surveyors verbally noted the need for restoration and upgrade of our rooms, hallways and common areas. We were not formally cited for these deficiencies given our proposed plan to address the issues raised. We intend to focus on the upgrade of our skilled nursing units on the second floor of d’Youville in order to be more responsive to both market and clinical demands for single occupancy rooms, with private bathroom facilities. We believe this will allow us to maximize our Medicare occupancy and thereby maximize federal revenues. Utilize vacated space resulting from the de-licensing of the beds to support other nursing home functions as detailed in our application. Demonstrate that MaineCare Budget Neutrality requirements have been satisfied. Demonstrate that this proposal is financially feasible. Ensure continued access, particularly for MaineCare recipients.”

“D’Youville intends to re-position itself as a nursing facility that is responsive to the needs of the community it serves. At the same time, we are proposing a model that will ensure continued economic viability of this critical community resource. To this end, we are seeking Simplified CON Review in order to accomplish the follow:”

“Reduce the licensed capacity of d’Youville from 280 to 210 beds. Over the last several years d’Youville has recognized that the market for long term care is changing considerably. With more stringent admission criteria and the availability of more community-based services such as home health and residential care, d’Youville began to observe fluctuations in occupancy during 2005 that had not existed before. In early 2006, d’Youville recognized that the operation of a 280 bed facility in this market was not economically feasible over the long term. Therefore, consolidation of units began as an immediate, short term response. D’Youville is now ready to more permanently structure the facility’s size and services for the future. This involves delicensing and selling up to 70 beds to a provider in a market where need exists. This will result in a 210 bed facility, still one of the largest long term care facilities in the State of Maine and northern New England.”

“D'Youville also believes it is essential to seek Medicare dual certification for the entire remaining complement of 210 beds. We feel we have a unique opportunity to provide Medicare skilled services given our close relationship as a referral source for St. Mary's Regional Medical Center, and dual certification will provide us with the flexibility we require to meet these needs. It will also benefit the MaineCare program as additional federal revenues will be forthcoming to meet d'Youville's financial needs.”

“Refurbish the facility. One obstacle we face in improving our Medicare market is our aging facility infrastructure. During the course of our Annual State Licensing Survey in early February, surveyors verbally noted the need for restoration and upgrade of our rooms, hallways and common areas. We were not formally cited for these deficiencies given our proposed plan to address these issues. In focus groups conducted with St. Mary's patients who had been transferred to the skilled facility at d'Youville, patients cited concerns with: lack of privacy, shared bathrooms with three other individuals, old facilities that appeared dated and depressing. The disparity between the acute care and long term care environment was jarring and ultimately unacceptable to a large number of patients.”

“Upgrade the facility. The sale of beds allows an excellent opportunity to begin upgrading the facilities at d'Youville. Utilizing a portion of the proceeds from the sale of the beds, d'Youville intends to renovate the second floor units that currently house 82 beds. 42 Single rooms with private toilets and showers will be created, and rehab services will be relocated to the second floor in order to provide unit-based, comprehensive rehab services as is demanded by these patients. This renovation, coupled with the dual certification of all other beds, will allow us the flexibility to meet the needs of the Medicare skilled patients referred to us.”

“A copy of current facility plans, renovation plans, a crosswalk showing the usage of various areas by floor before and after renovation, and a narrative description of the proposed use of the vacated space on 1 East are included under Tab D.”

“We have attached under Tab E our updated calculation of the MaineCare Savings Revenue Stream. Taking into account the projected third year operating costs for our renovations at \$212,000, this yields \$3,031,408 for the MaineCare revenue Stream available to sell to another provider. We are hopeful that we can reach agreement with Goodall Hospital in the near term in order to permit Goodall to meet its needs for additional skilled beds in an area of recognized shortage. The proceeds from this sale are also important to fund the costs of our needed renovations and updating. Our calculation results from the proposed downsizing to 210 beds, all dually certified as Medicare skilled beds. Currently our dually certified beds total 112. We have also utilized our projected payer mix, including higher percentage Medicare utilization resulting from having significantly more dually certified beds.”

“Upon completion of renovation of our skilled unit, we believe we will be able to offer a service that is more responsive to market demands. This will allow us the increase our

Medicare mix to at least 17%. Currently, we are Medicare certified in a designated area of the facility. Upon completion of this project and with the licensing change to dual certification, d'Youville pavilion will be positioned to efficiently care for complex Medicare patients on the second floor and access Medicare payment for residents who are residing on our 4 long-term care units and medically qualify for this benefit. Given that virtually all facilities in our market have excess capacity, we believe MaineCare access will continue to be maintained in our community. We have noted a declining long-term care occupancy rate in Maine averaging approximately 90% for 2006. Correspondingly however, residential care is experiencing an increase in occupancy. Consistent with the State's plan to decrease nursing home use and increase care at the lowest appropriate level possible, MaineCare recipients have access to many different levels of post acute care today than they have had in the past. This trend is expected to continue as Congress pilots new models that include shifting of funding mechanisms to care for frail elders at home. D'Youville Pavillion is and will continue to be a valued provider for MaineCare residents in our community and we will continue to have the largest market share in the region for this population given our history and commitment to this mission."

## **B. CONU Discussion**

### **i. Criterion**

The following criterion is applicable to this section:

Whether the services affected by the project will be accessible to all residents of the area proposed to be served. Accessibility is determined through analysis of the area including population, topography and availability of transportation and health services. [See Criterion C.]

### **ii. Analysis**

This project will not change the accessibility of the proposed services. Annual results for 2004 and 2005 confirm that 280 beds are not necessary at d'Youville. Ongoing changes in bed mix at other local providers, indicates an overabundance of NF beds in the area. By reducing capacity and making operations more streamlined, the overall operation of the facility will improve ensuring that the programs in place at the facility are maintained. Local access to high level nursing care for individuals with high case indica will also be maintained. D'Youville intends to continue to position itself as a nursing facility that is responsive to the needs of the community it services. At the same time, they are proposing a model that will ensure continued economic viability of this critical community resource.

## **II. PROFILE OF THE APPLICANT**

**A. From Applicant**

“D’Youville is a not-for-profit charitable corporation that operates a 280 bed long term care facility in Lewiston, Maine. The organization is State licensed and Eden<sup>TM</sup> certified. Copies of licenses, quality measures and statement of deficiencies with corrective action plans are attached under Tab A. D’Youville provides the following services:

- Skilled nursing services
- Transitional rehabilitation
- Specialized dementia care
- Intermediate long term care”

“The facility’s primary service area is Androscoggin County with a 2005 estimated population of 108,039. The secondary service area also includes Franklin and Oxford counties with a combined 2005 estimated population of 86,332.”

“D’Youville is an affiliate of Sisters of Charity Health Systems (SOCHS). SOCHS is also a not-for-profit charitable corporation and is the parent company of St. Mary’s Regional Medical Center (a 233 bed acute care hospital), d’Youville (a 280 bed nursing facility), and Maison Marcotte (a 128 apartment senior independent living facility). SOCHS also has a distinct relationship with Community Clinical Services (CCS), a Maine not-for-profit corporation that employs physicians and manages their practices. While CCS is an affiliate of SOCHS, it is not controlled by SOCHS. SOCHS provides management and administrative support to each of its subsidiaries and CCS. Together, SOCHS and its affiliates are collectively referred to as the “health system”.”

“Covenant Health Systems (CHS) is the sponsor and owner of SOCHS and its affiliates. CHS is a not-for-profit health care system formed in 1983 under the sponsorship of the Sisters of Charity of Montreal (Grey Nuns) to carry forth their century-long mission of providing value-driven, high quality health care services. Covenant Health Systems is based in Lexington, Massachusetts. SOCHS became an affiliate of CHS in 1992.”

“The mission of SOCHS and d’Youville is to continue the healing ministry of the Catholic Church in the spirit of St. Marguerite d’Youville by providing preventative, curative, restorative and supportive services with compassion and respect for everyone. The health system attempts to identify community needs and to respond to these needs with innovative, health quality, costs effective programs and services, SOCHS and its affiliate are part of a health care continuum unlike any other in the state. Primary care, emergency care, acute care, long term care and prevention and wellness services are all available through SOCHS and its subsidiaries and affiliates. This integrated health delivery system is a vital resource to the residents of central Maine. In 2006, SOCHS and its affiliates employed 1,383 full time equivalents and returned almost \$69 million in wages to the community. A copy of audited financial statements for the last two fiscal years is attached under Tab B.”

“Several key individuals will oversee implementation of the d’Youville facility renovations. Michael Grimmer, VP Facilities, will provide direct oversight of the construction and renovations. Overall project management will be the responsibility of the nursing home administrator, Debra Fournier. She and her management will ensure continuity and quality of care throughout implementation. A CV for both of these individuals is attached under Tab C.”

## **B. CONU Discussion**

### **i. Criteria**

Relevant criteria for inclusion in this section are related to the needed determination that the applicant is fit, willing and able to provide the proposed services at the proper standard of care as demonstrated by, among other factors, whether the quality of any health care provided in the past by the applicant or a related party under the applicant’s control meets industry standards;

The following nursing facility specific review criteria are relevant to this section:

1. Whether the quality of any health care provided by the applicant in the past meets industry standards. [See Criterion G.]
2. That the project ensures high quality outcomes and does not negatively affect the quality of care delivered by existing service providers. [See Criterion B.]
3. Whether the project will provide demonstrable improvements in quality and outcomes measures applicable to the services proposed in the project. [See Criterion H.]

### **ii. Analysis**

The applicant filed a copy of the current license for the facility. Statements of deficiencies are *on file with CONU*. There are no management agreements for this facility. An organizational chart for the applicant is available and *on file at CONU*.

A survey of the facility on 2/2/2007, found it was not in substantial compliance with Federal participation requirements for nursing homes. The survey found the most serious deficiencies to be a pattern that constituted no actual harm, potential for more than minimal harm, but not constituting immediate jeopardy. All Statements of Deficiencies are on file with the Department or may be viewed on the Internet. On 3/19/2007, the Department notified the facility that the facility was found to be in substantial compliance with the rules. On 4/5/2007, the facility was again found in substantial compliance upon follow-up to the annual survey. The quality of care at this facility meets industry standards.

**iii. Conclusion**

CONU recommends that the Commissioner find that the applicant is fit, willing and able to provide the proposed services at the proper standard of care as demonstrated by, among other factors, whether the quality of any health care provided in the past by the applicant or a related party under the applicant's control meets industry standards.

**III. CAPITAL EXPENDITURES AND FINANCING****A. From Applicant**

"The proposed capital expenditures for this project total \$1,527,320. The renovations are detailed under Tab F. The renovations will be funded from a portion of the proceeds associated with the sale of beds. No financing will be required."

"Given the anticipated reduction in licensed bed capacity from 280 to 210, d'Youville has already reduced staff. Total d'Youville FTEs budgeted in 2006 was 367. Now that d'Youville has 210 beds operational, the budgeted 2007 FTE count is 309."

"Enclosed under Tab G is a pro forma cost report, based on our projection of the 2010-year, since that will be the first full year of operation under this new model. The staffing and other costs have been reduced to reflect the new amount of beds. The depreciation expense includes the capital expenditures outlined in our Technical Assistance Meeting. We have assumed that we will maintain the current Fixed Staff Enhancement Payment (SEP) even after the beds are delicensed."

"Also enclosed under Tab H is a copy of a Meditech depreciation schedule that projects future year depreciation and summarized it by class. There is also an addendum to the summary of the planned renovations, their applicable depreciable lives, and the annual depreciation expense."

"Post stabilization of changes, we expect our MaineCare days to be at 49,005 per year. This would be a MaineCare occupancy rate of 66.1% as evidenced in the Proforma we are including. Historically, we have achieved close to this rate and believe by increasing Medicare utilization and increasing our private pay market this is realistically achievable. We are currently engaged in becoming a preferred provider for clients who have long term care insurance. This is another market that is yet untapped and will have an increased presence and importance in the future of long-term health care."

"Included under Tab I and projected P&L Statements. They are provided as evidence of the financial and economic feasibility of this project."

"D'Youville is licensed by the State of Maine and operates 112 Medicare certified beds. As such, the nursing home is mandated by these agencies to meet pertinent standards of care. The management and staff of d'Youville are always focused on continual

performance improvement. In order to ensure quality care for all those they serve, d'Youville provides:

- Full service admissions assistance
- Interdisciplinary discharge planning (98% satisfaction rate)
- Case management of all skilled services
- Acceptance of all payers/contracting with many commercial payers
- An electronic medical record
- Eden<sup>TM</sup> Alternative certification”

“Comprehensive rehab services with the ability to provide each patient three hours of rehab daily. As a result, d'Youville has achieved some impressive results. Fall rate, infection rate, MRSA infection incident rate, and facility acquired pressure ulcer rates all fall under national benchmarks.”

“Given this commitment to quality, d'Youville takes the State Licensing Survey process very seriously and always attempts to be responsive to recommendations made during the process. During the course of our Annual State Licensing Survey in early February, surveyors noted that need for restoration and upgrade of our rooms, hallways and common areas. This has been an ongoing concern, and to date d'Youville has not been able to fund the investment needed to make these necessary facility improvements. This proposal will allow d'Youville to begin to address these in a meaningful way. As described in this application, patient and resident safety, privacy and clinical quality will all be enhanced through the upgrade and renovation of our facilities.”

“The design and construction will comply with applicable regulatory standards, and plans will be reviewed with DHHS licensing officials and the Fire Marshal at the appropriate time.”

## **B. CONU Discussion**

### **i. Criteria**

The following review criteria are applicable to this section:

That economic feasibility of the proposed services is demonstrated in terms of:

1. The capacity of the applicant to support the project financially over its useful life, in light of the rates the applicant expects to be able to charge for the services to be provided by the project; and
2. The applicant's ability to establish and operate the project in accordance with existing and reasonable anticipated future changes in federal, state and local licensure and other applicable or potentially applicable rules.

Whether the project is financially feasible in both an intermediate and long-term time frame. [See Criterion E.]



Whether the project would produce a cost benefit in the existing health care system of the State and the area in which the project is proposed. [See Criterion F.]

## **ii. Analysis**

The applicant spent considerable time developing a financial forecast indicating the ability of the facility to be financially viable. For purposes of MaineCare neutrality the CONU staff determined that MaineCare would encompass 49,212 days of patient care. This is consistent with the 70% MaineCare payer mix exhibited by the facility in 2004 (audited), 2005, and 2006 (file cost reports) and the first four operating months of 2007. The applicant estimated savings at approximately \$3,000,000. This did not take into account the reduced reimbursements already occurring because of the transition from a 280 bed facility to a 210 bed facility that began in earnest in 2006. Ongoing occupancy is estimated to be at 91.5%. In further filings, the applicant demonstrated its ability to be financially viable at this occupancy and payer mix.

The proposed renovations are expected to increase depreciation expense by \$133,861. MaineCare savings is projected at \$2,228,574. D'Youville is selling the remaining \$2,194,647 in MaineCare savings cash flow for \$1,426,100. This is approximately 90% of the renovation costs. The remaining renovation costs will be provided by the operating entity out of existing cash reserves. This project is MaineCare neutral. Calculation is *on file at CONU*.

## **iii. Conclusion**

CONU recommends that the Commissioner find that the economic feasibility of the proposed services is demonstrated in terms of:

1. The capacity of the applicant to support the project financially over its useful life, in light of the rates the applicant expects to be able to charge for the services to be provided by the project; and
2. The applicant's ability to establish and operate the project in accordance with existing and reasonably anticipated future changes in federal, state and local licensure and other applicable or potentially applicable rules;

## **IV. NEEDS TO BE MET**

### **A. From Applicant**

The applicant provided the following:

"D'Youville is a critical component of the integrated health care continuum offered by the Sisters of Charity Health System to the citizens of Lewiston-Auburn and Androscoggin County. Patients seek primary and specialty care from our network of providers; they access ancillary, emergency, outpatient services, acute inpatient and

behavioral care from St. Mary's Regional Medical Center; and they have come to depend on d'Youville for their rehabilitation and long term care needs. As criteria for nursing home admission have become more stringent, however, individuals are most often accessing long term care through transfer to the skilled nursing service following an acute care stay. With this evolution, patients are presenting with more complex medical conditions and higher risks for infection. Many are rehab patients who will utilize the skilled stay as a transition between acute care and eventual discharge home."

"Consequently, the skilled component of long term care is evolving into a much more dynamic environment. There are many more admissions and discharges, and length of stay is aggressively managed. While the intermediate level of long term care continues to follow a more traditional, static pace, skilled nursing care is presenting much more significant management and facility challenges."

"As d'Youville has been over the last several years, total Medicare skilled patient days are declining due to both the decrease in length of stay and the continued movement towards providing care in less restrictive settings such as home health and residential care. This phenomenon is in many ways counteracting the aging of the population and its potential impact on volume. In addition, we have heard from our patients that our skilled facility does not meet their expectations in several respects. They are looking for single rooms, with private bathroom facilities. The current arrangement of semi-privates and 4-person shared toilets is unacceptable to a growing number of our patients. Privacy is a concern our patients and staff share, as is the desire to minimize infection control issues related to sharing of rooms. Our patients are also commenting on the overall need for renovation and upgrade. The facilities are dated and have become very difficult to clean. The need for upgrade was also noted during our most recent State Licensing Survey in February. Therefore, if d'Youville is to continue to be viable long term care provider, serious attention should be given to the foregoing and several remedial steps are required."

"This is why d'Youville proposes to sell up to 70 of its 280 beds. With the proceeds, the second floor units will be renovated to accommodate 42 skilled beds in single rooms with private toilet and shower. Simultaneously, we will pursue Medicare dual certification for all 210 beds. This will provide us with maximum flexibility, allow us to increase our Medicare volume."

"We feel the single room concept will allow us to better respond to the needs of our patients. Privacy and confidentiality will improve. There will be space for family members to support the care of their loved ones, and therapists will be able to work with patients on activities of daily living within an environment that simulates the home they will return to. The single room will also allow us to accommodate the increasing need for medical equipment, as well as the space intensive needs related to the increasing bariatric population."

"D'Youville has traditionally been a provider of choice for complex skilled patients who require specific infection control measures. Patients with VRE and MRSA require very

specific preventative controls. Often the use of private rooms is required, or strict limitations on roommates exist.”

“We do not anticipate that there will be a negative impact on the MaineCare population. There is existing capacity at neighboring facilities such as Marshwood, Clover Health Care and Montello.”

“Reported payer mix is as follows:”

	MaineCare	Medicare/Other
YE 2006	67.5	32.5
YE 2005	68.9	30.1
YE 2004	72.6	25.4

“In 2007, the nursing facility had an occupancy level of 79.6% through April. The MaineCare percentage of Occupied Beds was 74.5%.”

## **B. CONU Discussion**

### **i. Criteria**

That there is a public need for the proposed services as demonstrated by certain factors, including but not limited to:

1. Whether, and the extent to which the project will substantially address specific health problems as measured by health need in the area to be served by the project;
2. Whether the project will have a positive impact on the health status indicators of the population to be served;
3. Whether the services affected by the project will be accessible to all residents of the area proposed to be served; and
4. Whether the project will provide demonstrable improvements in quality and outcome measures applicable to the services proposed in the project.

The following criteria are applicable:

1. Whether the project will substantially address specific problems or unmet needs in the area to be served by the project. [See Criterion A.]
2. Whether the project will have a positive impact on the health status indicators of the population to be served. [See Criterion B.]

### **ii. Analysis**

Necessary services will remain in place and the applicant will ensure that these services continue to be available in the community. D'Youville is a critical component of the integrated health care continuum offered by sisters of Charity Health System within the

service area. Patients seek primary and specialty care from their network of providers. Patients access ancillary, emergency, outpatient services, acute inpatient and behavioral care from St. Mary's Regional Medical Center. Community members depend on d'Youville for their rehabilitation and long term care needs. As nursing home admission criteria have become more stringent, individuals are most often accessing long term care through transfer to the skilled nursing facility following an acute care stay. With this evolution, patients are presenting with more complex medical conditions and higher risks for infection. Many of d'Youville residents are patients who will utilize the skilled beds as a transition between acute care and eventual discharge to home. Reportedly, the skilled component of long term care is evolving into a much more dynamic environment. The applicant reported that length of stay has decreased because of this and due to increased managed length of stay. While the intermediate level of long term care continues to follow a more traditional, static pace, nursing care is presenting much more significant patient management and facility challenges.

At d'Youville, total Medicare skilled patient days have been declining due to both the decrease in length of stay and the continued movement toward providing care in less restrictive settings such as home health and residential care. This phenomenon is in many ways, counteracting the aging of the population and its potential impact on volume. Patient comments have led the applicant to believe that the facility does not meet their expectations in several respects. The applicant suggests that patients need single rooms with private bathroom facilities. The current arrangements are semi-private rooms and 4-person shared toilets. Privacy is a growing concern, as is the desire to minimize infection control issues. There is a demonstrated need for renovation and upgrade. The facility is dated and has become difficult to maintain. The need for upgrade was also noted during the most recent State Licensing Survey in February 2007.

D'Youville proposes to sell 70 of its 280 beds. With the proceeds, the second floor will be renovated to accommodate 42 skilled beds in single rooms with private toilet and shower.

There will be space for family members to support the care of their family members, and therapists will be able to work with patients on activities of daily living within an environment that simulates the home to which they will return. The single room will also allow them to accommodate an increasing need for medical equipment, as well as the space-intensive need specific to the geriatric population.

D'Youville has traditionally been a service provider for complex skilled patients who require specific infection control measures. Patients with VRE and MRSA require very specific preventative controls. Often the use of private rooms is required and strict limitations on roommates exist that makes cohabitation of rooms difficult.

### **iii. Conclusion**

CONU recommends that the Commissioner find that there is a public need for the proposed services as demonstrated by certain factors, including but not limited to:

1. Whether, and the extent to which the project will substantially address specific health problems as measured by health need in the area to be served by the project;
2. Whether the project will have a positive impact on the health status indicators of the population to be served;
3. Whether the services affected by the project will be accessible to all residents of the area proposed to be served; and
4. Whether the project will provide demonstrable improvements in quality and outcome measures applicable to the services proposed in the project.

## **V. ALTERNATIVES CONSIDERED**

### **A. From Applicant**

“While the proposal presented in this application is actually the only alternative to ensure ongoing financial viability for d’Youville, other options would include:”

“Do nothing. Continue to operate 280 beds and defer much needed facility improvements. Experience further declines in occupancy, and incur financial occupancy penalty. Option not desirable from quality or economic perspective. Will ultimately jeopardize the ongoing viability of a critical community health resource.”

“Operate only 210 beds, bank the additional 70 beds, continue to defer much needed facility improvements. Same net results as option 1. We do not believe the demand for 280 beds will ever return, so there is little wisdom in pursuing such a strategy.”

“Sell 70 bed and pursue much needed facility improvements will proceeds from sale. This option re-assigns beds to an area where they are needed, and allows St. Marguerite d’Youville Pavillion to better respond to community needs in a financially viable manner.”

“Maintaining the status quo would not meet the needs of our community, and therefore, we believe option 3 is the only viable alternative for us to pursue.”

### **B. CONU Discussion**

#### **i. Criteria**

Relevant criteria for inclusion in this section are that the proposed services are consistent with the orderly and economic development of health facilities and health resources for the State as demonstrated by: the impact of the project on total health care expenditures after taking into account, to the extent practical, both the costs and benefits of the project and the competing demands in the local service area and statewide for available resources for health care. The availability of state funds to cover any increase in state costs associated with utilization of the project’s services; and the likelihood that more

effective, more accessible or less costly alternative technologies or methods of service delivery may become available. Additionally, a further criterion is whether there are less costly or more effective alternate methods of reasonably meeting identified health service needs of the project. [See Criterion D.]

**ii. Analysis**

The proposed services are consistent with the orderly and economic development of the area because needed upgrades are being funded through the transfer of resources from one facility that no longer needs the capacity to a facility with a demonstrated need. A future need for 280 beds in a strictly SNF environment is not anticipated. Local occupancy rates indicate that there is an oversupply of nursing beds in the area. This is further supported by the significant changes in bed mix through conversions to residential care beds. The mechanism for making these upgrades lessens the impact on the MaineCare system since no additional costs for financing will occur.

**iii. Conclusion**

CONU recommends that the Commissioner determine that the proposed services are consistent with the orderly and economic development of health facilities and health resources for the State.

**VI. STATE HEALTH PLAN**

**A. From Applicant**

“This application also meets the criteria for a maintenance and renovation project in Simplified Review as set forth in section 336 of the CON law. This is, the project:

- Will result in no or a minimal additional expense to the public or to the health facility’s clients;
- Will be in compliance with the applicable state and local laws and regulations; and
- Will significantly improve or, in the alternative, not significantly adversely affect the health and welfare of any person currently being served by the health care facility.”

“With respect to the foregoing criteria, d’Youville’s Application anticipates that any additional expense attributable to this project will not be borne by the public, but will be supported by a portion of the 70 beds that will be de-licensed. The project will be built and maintained in compliance with applicable State and local law as described in this Application. The project will significantly improve the health and welfare of d’Youville residents as it provides enhanced opportunities to segregate residents, minimizing the risk for transmission of infections and diseases. It also provides updated facility that will minimize the frequency of accidents inherent in buildings with aging infrastructure.”

“D’Youville is committed to promoting health services and programs that are consistent with the orderly and economic development of health facilities and health resources for the entire State of Maine, and in a manner that is consistent with the State Health Plan (“SHP”). We believe this proposal meets the intent of the SHP as surplus bed in one part of the State will be reallocated to another part of the State where unmet need exists. As noted above, the project contributes to the State health priority of protecting public health and safety, which is the initial specific priority discussed in the SHP relative to the SHP interaction with the CON law. The project will contribute to increased efficiency as the 210 beds remaining at d’Youville will all be dually licensed for both Medicare and Medicaid residents. The foregoing attributes indicate harmony with the guideposts reflected in the SHP of accessibility, affordability, and quality with respect to the health services offered by d’Youville.”

## **B. CONU Discussion**

### **i. Criterion**

That the project is consistent with the State Health Plan.

### **ii. Analysis**

This project does not conflict with the State Health Plan, and will result in the continued right-sized operation of the facility. Likewise, a key component of the project is a necessary upgrade to ensure the well-being of the residents of the facility. This proposal meets the intent of the State Health Plan since surplus beds in one part of the State will be reallocated to another part of the State where unmet needs exist. As noted above, the project contributes to the State health priority of protecting public health and safety. The project will contribute to increased efficiency since the 210 beds remaining at d’Youville will all be licensed for both Medicare and Medicaid residents. The project is consistent with the stated goals of accessibility, affordability, and quality with respect to the health services offered by d’Youville.

### **iii. Conclusion**

CONU recommends the Commissioner determine that the project is consistent with the State Health Plan as demonstrated by the applicant.

## **VII. OUTCOMES AND COMMUNITY IMPACT**

### **A. From Applicant**

“We feel the single room concept will allow us to better respond to the needs of our patients. Privacy and confidentiality will improve. There will be space for family members to support the care of their loved ones, and therapists will be able to work with patients on activities of daily living within an environment that simulates the home they will return to. The single room will also allow us to accommodate the increasing need

for medical equipment, as well as the space intensive needs related to the increasing Bariatric population.”

“We do not anticipate that there will be a negative impact on the MaineCare population. There is existing capacity at neighboring facilities such as Marshwood, Clover Health Care and Montello.”

## **B. CONU Discussion**

### **i. Criterion**

1. That the project ensures high quality outcomes and does not negatively affect the quality of care delivered by existing service providers;
2. That the project ensures high quality outcomes and does not negatively affect the quality of care delivered by existing service providers. [See Criterion B.]

### **ii. Analysis**

The project does not involve any changes to its NF care program, except for those provided by improving the facilities used by the residents. The current administrator is expected to remain. By reducing the population of bed at d'Youville, the facility will be able to make important upgrades to its facilities and increase space allocated to each resident; this has been shown to increase resident satisfaction and safety. Reduced staffing levels has already occurred.

### **iii. Conclusion**

CONU recommends that the Commissioner determine that the project ensures high-quality outcomes and does not negatively affect the quality of care delivered by existing service providers.

## **VIII. SERVICE UTILIZATION**

### **A. From Applicant**

“There is existing capacity at neighboring facilities such as Marshwood, Clover Health Care and Montello.”

## **B. CONU Discussion**

### **i. Criterion**

Relevant criterion for inclusion in this section is specific to the determination that the project does not result in inappropriate increases in service utilization, according to the principles of evidence-based medicine adopted by the Maine Quality Forum. [See Criterion G.]



**ii. Analysis**

The project does not include any new beds. The project as proposed does not include changes to its administrative staff or programs. By decreasing bed counts the potential for increased utilization is reduced. Recent (2006 and more currently) bed conversions have occurred and occupancy of beds in the area has remained lower than other areas.

**iii. Conclusion**

CONU recommends that the Commissioner determine that the project does not result in inappropriate increases in service utilization, according to the principles of evidence-based medicine adopted by the Maine Quality Forum.

**IX. TIMELY NOTICE**

D'Youville filed a Letter of Intent for this project on March 1, 2007. Upon notification of potential CON applicability, a technical assistance meeting was scheduled. This meeting occurred on March 28, 2007.

A Letter of Intent was filed March 1, 2007.

The Application was provided to CONU on May 11, 2007.

Notice regarding the beginning of a review of this project was in the Kennebec Journal on June 1, 2007, and the Lewiston Sun Journal on June 1, 2007.

A public information meeting was held at the facility on June 12, 2007.

No members of the public attended nor provided comment. All appropriate notice requirements have been met.

**X. FINDINGS AND RECOMMENDATIONS**

Based on the preceding analysis, the CONU makes the following findings and recommendations;

- A. That the applicant is fit, willing and able to provide the proposed services at the proper standard of care as demonstrated by, among other factors, whether the quality of any health care provided in the past by the applicant or a related party under the applicant's control meets industry standards;
- B. That the economic feasibility of the proposed services is demonstrated in terms of;
  - 1. The capacity of the applicant to support the project financially over its useful life, in light of the rates the applicant expects to be able to charge for the services to be provided by the project; and

2. The applicant's ability to establish and operate the project in accordance with existing and reasonable anticipated future changes in federal, state and local licensure and other applicable or potentially applicable rules;
- C. That there is a public need for the proposed services as demonstrated by certain factors, including but not limited to:
1. Whether, and the extent to which the project will substantially address specific health problems as measured by health needs in the area to be served by the project;
  2. Whether the project will have a positive impact on the health status indicators of the population to be served;
  3. Whether the services affected by the project will be accessible to all residents of the area proposed to be served; and
  4. Whether the project will provide demonstrable improvements in quality and outcome applicable to the services proposed in the project.
- D. That the proposed services are consistent with the orderly and economic development of health facilities and health resources for the State as demonstrated by:
1. The impact of the project on total health care expenditures after taking into account, to the extent practical, both the costs and benefits of the project and the competing demands in the local service area and statewide for available resources for health care;
  2. The availability of state funds to cover any increase in state costs associated with utilization of the project's services; and
  3. The likelihood that more effective, more accessible or less costly alternative technologies or method of service delivery may become available;

In making a determination under this subsection, the Commissioner shall use data available in the State Health Plan under data from the Maine Health Data Organization established in Title 22, Chapter 1683 and other information available to the Commissioner. Particular weight must be given to information that indicates that the proposed health services are innovations in high quality health care delivery, that the proposed health services are not available in the proposed area and that the facility proposing the new health services is designed to provide excellent quality health care.

- E. That the project is consistent with the State Health Plan.
- F. That the project ensures high quality outcomes and does not negatively affect the quality of care delivered by existing service providers;
- G. Does not result in inappropriate increases in service utilization, according to the principles of evidence-based medicine adopted by the Maine Quality Forum.

Based upon the findings cited above, the CONU recommends **APPROVAL** of this project.